

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED

DOC #:

DATE FILED: 8/24/22

Vs.

DISTRICT COURT CASE NO: 10-cr-391(cm)

MARCO BOYKIN,  
DEFENDANT

Defendant's motion to ~~reargue~~ renew the Court's denial of his § 2255 motion is DENIED. The Court declines to issue a Certificate of Appealability. The Court finds that an appeal from this order would not be taken in good faith.

PETITION TO VACATE, SET ASIDE OR CORRECT SENTENCE  
IN LIGHT OF THE JUNE 28, 2021 DECISION RENDERED IN  
UNITED STATES v. COREY HEYWARD DOCKET NO. 19-1054-cr  
AS NEWLY INTERVENING CHANGE OF LAW. 28 U.S.C. 2255

BACKGROUND

On March 10, 2014, defendant having been found guilty by plea to one count of Racketeering, conspiracy in violation of 18 U.S.C 1962(c) which crime carries with it a statutory maximum term of life imprisonment; One count of narcotics conspiracy, a class "A" felony in violation of 21 U.S.C 846. and 841(b)(1)(a) and 2 and this crime carries with it a statutory mandatory minimum of ten years to life imprisonment and one count of possession use carrying and discharge of firearms during a crime of violence, a class "A" felony in violation of 18 United States code sections 924(c)(1)(a)iii and 2 and this carries a mandatory minimum sentence of ten years up to life in counts two eighteen and twenty five.

Petitioner files this petition in accordance with Hanes v. Kerner, 404 U.S 519 as he is just a laymen in the law, and wholly believes that as a matter of due process and equal protection, that based on his being in the same and or similar situation as Corey Heyward, docket no: 19-1054-cr, and is entitled to the same relief as "Heyward". Also see: United States v. Davis 139 S.Ct 2319 (2019) which precludes 18 U.S.C 924(c) from being applied to murder conspiracy given that possibility that petitioners 924(c) conviction was based on murder conspiracy conduct rather than on a qualifying drug trafficking offense. Which would further invalidate petitioners conviction and sentence in count two, count eighteen and count twenty five. Totalling 355 months.

MEMO ENDORSED

8/24/22

The Court denied defendant's earlier § 2255 motion asserting Johnson/Davis grounds, as well as his subsequent motion to reconsider the Court's denial in light of the 2d Circuit's decision in United States v Heyward, 3 F.4th 75 (2d Cir 2021). Defendant's present filing is yet another motion to renew the Court's denial of his § 2255 motion, in light of Heyward.


Thus because petitioner was sentence to a total of 355 months in part because the narcotics conspiracy was grouped with the racketeering conspiracy, petitioner is wholly entitled to all of the relief available to him, consistent with "Heyward" (2nd circuit court of appeals); and United States Supreme Court decision in U.S v Davis 139 S.Ct 2319 (2019).

Done and executed on this 15 day of July 2021. And Copied AUSA Michael D. Maimin Esq. U.S Attorney office for the Southern District of New York. Freeman Nooter & Ginsberg c/o Louis M. Freeman

RELIEF SOUGHT

1. Appointment of counsel; conflict free
2. Vacate and remand for further proceedings consistent with the opinion rendered and findings in United States v Corey Heyward. 19-1054 decided June 28, 2021 in the United States Court of Appeals for the Second Circuit.
3. All other relief that this court deems just and proper.
4. Correct the overall sentencing disparity based on the constitutional errors created by the district courts previous application of the laws of the circuit.

ALL RIGHTS RESERVED



Marcco Boykin  
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Jesup Georgia 31599

IN THE UNITED STATES DISTRICT COURT  
FOR THE Southern DISTRICT OF NEW York

CASE NO. 10-CR-391

MARCO Boykin

PETITIONER,

VS.

UNITED STATES OF AMERICA,

RESPONDENT.

MOTION FOR STATUS REPORT OR HEARING

TO THE HONORABLE COURT JUDGE: Colleen McMahon

Comes now the Petitioner, pro se, and respectfully moves this Honorable Court, for a status report or hearing on his motion currently pending before this Court. Petitioner will show the court as follows:

1. On or about July 15, 2021 the petitioner mailed his motion to the Clerk's Office for filing with the court..
2. On N/A , the Court issued an order directing the government to respond to the Petitioner's.
3. The United States filed a motion for extension of time in which to respond that the Court granted. N/A
4. On or about N/A , the United States filed its Government's Response to motion.
5. On N/A the Petitioner filed his Reply to the Government's Response to
6. On N/A by Status Report filed by U.S.A. as to

7. This motion is made in the interest of justice and not meant to delay the proceedings..

Wherefore, based on the above, \_\_\_\_\_ urges this Honorable Court to grant this motion or conduct a hearing and appoint counsel.

Respectfully submitted on this 28<sup>th</sup> day of July, 2022.

\_\_\_\_\_  
Signature

Done and executed in this 28<sup>th</sup> day of July, 2022 and copied to  
AUSA

Marco Boykin 83764-054

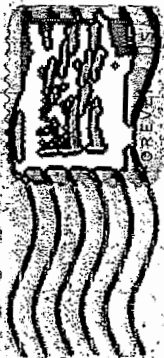
Federal Correctional Institution Jesup

2680 Highway 301 South Fa 117

Jesup GA 31599

JACKSONVILLE FL 320

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SDNY

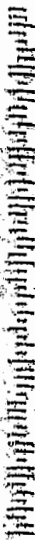
The United States Court of Appeals  
For the Second Circuit

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10007-150301

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